

EDWARD W. CALLAN
Attorney at Law
3830 Valley Centre Drive, No. 705, PMB 452
San Diego, California 92130

RECEIVED
CENTRAL FAX CENTER

NOV 26 2008

Patents
Trademarks
Copyrights

Telephone: (858) 259-5533
Facsimile: (858) 259-5537
Email: ecallan1@san.rr.com

FACSIMILE TRANSMISSION SHEET

November 26, 2008

To: Examiner Hatem Ali
USPTO - Group Art Unit 3692
Alexandria, VA

Facsimile: 571-270-4021
Telephone: 571-270-3021

Subject: Telephone Interview- Application No. 10/089,580

Dear Examiner Ali:

Thank you for agreeing to grant a telephone interview to discuss the Office Action mailed September 3, 2008.

Transmitted herewith, please find the following documents:

- Applicant Initiated Interview Request Form - PTOL-413A
- Issues to be Discussed

An Authorization to Act in a Representative Capacity (Form PTO/SB/84) was previously filed.

I understand that you will telephone me to inform me of the time and date of the interview



Edward W. Callan
Attorney Registration No. 24,720
Attorney for Applicant

Copy with enclosures sent to 571-273-8300

NUMBER OF PAGES BEING SENT INCLUDING THIS COVER SHEET: 7

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. If the recipient of this communication is not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error please immediately notify me by telephone and return the original communication to me by mail. Thank you.

NOV 26 2008

PTOL-413A (11-08)
Approved for use through 12/31/2008. OMB 0851-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/089,580

First Named Applicant: LANGER

Examiner: ALI, HATEM

Art Unit: 3692

Status of Application: FINAL REJ.

Tentative Participants:

(1) HATEM ALI

(2) EDWARD W CALLAN

(3)

(4)

Proposed Date of Interview:

Proposed Time: AM/PM

Type of Interview Requested:

(1) ☒ Telephonic(2) ☐ Personal(3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated:

☐ YES☐ NO

If yes, provide brief description:

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rej. 112	26 and 27		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Rej. 103	10-23, 25-27	Stadelmann, Hunt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Continuation Sheet Attached

Brief Description of Argument to be Presented:

Please see the attached paper entitled: "Issues to be Discussed".

An interview was conducted on the above-identified application on _____.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Edward W Callan

Applicant/Applicant's Representative Signature

EDWARD W CALLAN

Typed/Printed Name of Applicant or Representative

24,720

Registration Number, if applicable

Examiner/SPE Signature

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Application No. 10/089,580 - For Purpose of Interview Only - **DO NOT ENTER**

ISSUES TO BE DISCUSSED

Rejection of Claims 26-27 under 35 USC 112, first paragraph.

In Claim 26, the recitation "said transaction data received by the customer from the provider" is supported by paragraphs 11 and 12 on page 4 of the present application.

Rejection of Claims 10-23 and 25-27 under 35 USC 103.

In the Office Action of September 3, 2008 the Examiner's reasons for rejecting Claim 10 were the same as those stated in the Office Action of March 6, 2008. Claim 10 was not amended by the Amendment filed in response to the March 6th Office Action.

In applicant's response to the Office Action of March 6, 2008, the following points of argument were made in response to a traversal of a rejection of Claim 10 as being unpatentable over Stadelmann, in view of Hunt.

1. In Stadelmann's system, only one message including transaction data (the short confirmation message F) is sent to the validation platform; whereas Claim 10 requires that both a customer message including transaction data and a provider message including transaction data be sent to a payment gateway. See column 3, lines 29-32 of Stadelmann.
2. In Stadelmann's system, the transaction data included in the short confirmation message F does not include payment options, whereas Claim 10 requires that the transaction data in the provider message include payment options.
3. In Stadelmann's system, the validation platform does not synchronize the short confirmation message F with any other received message that includes transaction data; whereas Claim 10 requires that a customer message including transaction data be synchronized with a provider message including transaction data.

Application No. 10/089,580 - For Purpose of Interview Only - **DO NOT ENTER**

4. In Stadelmann's system, the validation platform does not compare the short confirmation message F with any other received message that includes transaction data; whereas Claim 10 requires that a customer message including transaction data be compared with a provider message including transaction data to determine whether they match.

5. In Stadelmann's system, the validation platform processes the short confirmation message F with data pertaining to the customer and the provider, as described at column 3, line 47 to column 4, line 5, as a prerequisite to performing a deduction from a customer's account; whereas Claim 10 requires that a deduction from the customer's account be performed if the compared provider and customer messages including transaction data match. As noted above, in Stadelmann's system there is no comparison of provider and customer messages that include transaction data.

In the Office Action of March 6, 2008 the Examiner conceded that "Stadelmann fails explicitly to disclose the steps of synchronizing said provider and customer messages in the payment gateway, comparing said provider and customer messages to determine whether they match". Such concession appears to concede points of argument 3 and 4. Following such concession, the Examiner asserted (i) that Hunt was in the same field of invention, (ii) that Hunt "discloses the steps of synchronizing said provider messages in the payment gateway, comparing said provider and customer messages", and (iii) that it would have been obvious to modify the system disclosed by Stadelmann to include the features mentioned and taught by Hunt in order to facilitate the tracking of shopping cart-related activity.

Applicant's response to the Office Action of March 6, 2008 also included the following additional point of argument in response to the Examiner's assertions discussed in the preceding paragraph:

Application No. 10/089,580 - For Purpose of Interview Only - **DO NOT ENTER**

6. Such a modification would not have been obvious because Hunt is directed to a different field of invention and does not teach the steps of synchronizing provider and customer messages in a payment gateway and comparing said provider and customer messages to determine whether they match. Whereas Claim 10 requires that the synchronization and comparison functions be performed as part of a method of payment for goods or services, Hunt merely discloses a method of correlation and analysis of sales data subsequent to the sales for the purpose of analyzing purchase and traffic patterns. (Abstract and Summary of the Invention portions of Hunt).

In the Office Action of September 3, 2008, the Examiner responded to only those of applicant's points of argument that are numbered above as points of argument 2 and 6.

The following aspects of the Examiner's reasoning in his responses to these two points of argument are not understood:

a. Regarding the Examiner's response to point of argument number 2, it is not understood why the Examiner asserts that the requirement of Claim 10 that transaction data in the provider message include payment options is met by the disclosure of Stadelmann at column 3, lines 21+, since there is no mention in Stadelmann of payment options being included in any of the messages that are sent from the service provider 2 to the customer's mobile radio telephone 1. Claim 10 recites "options", which means a plurality of options. An option of whether or not to confirm an order at the price offered in message D is not a plurality of payment options. The recited payment options are options as to the manner of payment, such as described in the present application in paragraph 15 beginning on page 5.

Application No. 10/089,580 - For Purpose of Interview Only - **DO NOT ENTER**

b. Regarding the Examiner's response to point of argument number 6, it is not understood why the Examiner implicitly asserts that Hunt is either "in the field of applicant's endeavor" or "reasonably pertinent to the particular problem with which the applicant was concerned".

c. Hunt is not in the field of applicant's endeavor because the field of endeavor of applicant's Claim 10 is a method of payment for goods or services; whereas Hunt's field of endeavor is a method of correlation and analysis of sales data subsequent to the sales for the purpose of analyzing purchase and traffic patterns.

d. The portion of Hunt cited by the Examiner is not reasonably pertinent to the particular problem with which the applicant was concerned because applicant's claim 10 is pertinent to the problem of providing a basis for performing a deduction from a customer's account; whereas the portion of Hunt cited by the Examiner is pertinent to the problem of analyzing purchase and traffic patterns.

e. Furthermore, modifying Stadelmann's system to include the features mentioned and taught by Hunt would not have resulted in the present invention because neither Stadelmann nor Hunt disclose or suggest performing a deduction from the customer's account if the provider and customer messages match, as required by Claim 10, and as pointed out in point of argument number 5.

During the interview it is requested that the Examiner discuss the issues set forth in paragraphs a, b, c, d and e above regarding points of argument numbered 2, 5 and 6; and that the Examiner also discuss the issues set forth in points of argument numbered 1 and 5, to which the Examiner did not respond in the Office Action of September 3, 2008.

Application No. 10/089,580 - For Purpose of Interview Only - **DO NOT ENTER**

Points of argument 1, 2, 3, 4, 5 and 6 are also applicable to independent Claims 25 and 26.

Regarding Claim 11, the rejection thereof is not understood because Stadelmann does not disclose that "no electronic financial information and no customer information is stored in said terminal after the transaction", as required by Claim 11. Such a limitation is not disclosed at column 3, lines 40-45 (cited by the Examiner), which states:

"In a variant, in order to protect the private sphere of the customer, the copy of the confirmation message for the validation platform 42 contains only the data which are necessary for the monetary transaction (identification of the customer, of the services provider and amount), but no data concerning the purchased service, product or information."

The "identification of the customer" contained in the confirmation message for the validation platform 42 is customer information.

During the interview, it is requested that the Examiner also discuss the rejection of Claim 11 in view of the argument in the preceding paragraph.